



## INSPECTOR GENERAL REPORT

2007-05-0098

December 31, 2007

### MOTOR POOL MISUSE OF STATE PROPERTY

*Inspector General David O. Thomas and Staff Attorney Amanda Schaeffer, after an investigation by Special Agent Alan McElroy, report as follows:*

The Office of the Inspector General (OIG) received in May of 2007 a complaint alleging misconduct against two employees of the Motor Pool Division of the Indiana Department of Administration. This report addresses the second employee, Ray Malospiriti, the Superintendent of the Motor Pool, who was accused of improper use of state property.

The Indiana Code of Ethics in 42 IAC 1-5-12 states that an employee shall not make use of state materials, funds, property, personnel, facilities or equipment for any purpose other than for official state business unless the use is expressly permitted by a general written agency, departmental or institutional policy or regulation.

The OIG has jurisdiction to investigate violations of the Indiana Code of Ethics and to file a complaint with the State Ethics Commission (SEC) if probable cause supports the violation. IC 4-2-7-3.

The investigation revealed that a violation had occurred in the Superintendent's use of state vehicles. Specifically, the investigation revealed

that the Superintendent drove state vehicles home and on personal business on multiple occasions outside official state business. The investigation included the review of computer records and interviews. The agency policies were also reviewed to determine if they permitted this use as addressed in the rule, but it was found that this use was not authorized by written policy.

A complaint was filed with the SEC on August 9, 2007 and probable cause was approved by the SEC.

The Superintendent contested the complaint in a full hearing before the SEC. OIG attorney Amanda Schaeffer represented the OIG in the hearing and presented multiple witnesses and introduced various exhibits in support of the complaint. The Superintendent also presented evidence. Closing arguments were presented and the matter was taken under advisement by the SEC.

On December 13, 2007, the SEC announced its final decision that OIG attorney Amanda Schaeffer had proven the complaint by a preponderance of the evidence as required by law. The SEC also imposed a penalty against the Superintendent which included a fine of \$1,000 and suspended the Superintendent from work without pay for a period of 10 consecutive working days.

Dated this 31<sup>st</sup> day of December, 2007.

A handwritten signature in black ink, appearing to read "David O. Thomas", is positioned above a horizontal line.

David O. Thomas, Inspector General